

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL NOTE**

HB 2218 - SB 2172

February 16, 2012

SUMMARY OF BILL: Defines “controlled substance analogue” as a capsule, pill, powder, product, or other substance with the chemical structure that is a derivative of, or substantially similar to, the chemical structure of a controlled substance; or has a stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance. Creates a new felony offense for a person who knowingly manufactures, delivers, dispenses, or sells a controlled substance analogue, or who possesses a controlled substance analogue with the intent to manufacture, deliver, dispense, or sell such substance. Punishment varies from a Class B to a Class E felony depending on the schedule of the controlled substance. Creates a new Class A misdemeanor offense for a person who knowingly possesses or casually exchanges a controlled substance analogue; or who represents, advertises, infers, or intends that a controlled substance analogue is a derivative of, or substantially similar to, the chemical structure of a controlled substance or has the same effect as a controlled substance.

ESTIMATED FISCAL IMPACT:

On January 12, 2012, a fiscal note was issued with the following impact:

*Increase State Expenditures - \$499,400/Incarceration**

Due to a reduction in the per diem for FY11-12 for Department of Correction institutions, this impact was in error. Based on additional review, the estimated impact is:

(CORRECTED)

Increase State Expenditures - \$486,800/Incarceration*

Assumptions:

- According to the Department of Correction (DOC), there has been an average of 40 admissions for Schedule I drug offenses in each of the past 10 years. DOC estimates there will be a 10 percent increase (4) in admissions as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on four offenders.

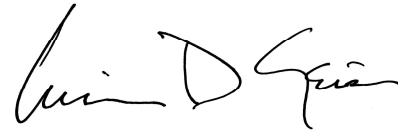
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- According to DOC, the average operating cost per offender per day for calendar year 2012 is \$61.36 and the average post-conviction time served for a Class B felony is 5.43 years (1,983.31 days) at a cost of \$121,695.90 (\$61.36 x 1,983.31 days). The total additional operating cost for four offenders is \$486,783.60 (\$121,695.90 x 4).
- Any impact on the caseloads of state trial courts can be accommodated within existing resources without an increased appropriation or reduced reversion.
- There will not be a sufficient number of misdemeanor prosecutions for state or local government to experience any significant increase in revenue or expenditures.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenses is negligible. There will not be a significant increase in revenue as a result of this bill.
- Since this bill creates a new offense, no recidivism discount has been included.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/lsc